

Message Text

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ACTION IO-06

INFO OCT-01 SS-14 ISO-00 NEA-07 EUR-08 ARA-06 EA-06 AF-04

NSC-05 NSCE-00 EB-04 INR-05 CIAE-00 L-01 TRSE-00 /067 W

-----120244Z 017153 /73

R 120107Z FEB 77

FM USMISSION USUN NY

TO SECSTATE WASHDC 2396

INFO AMEMBASSY ALGIERS

AMEMBASSY BERN

AMEMBASSY BOGOTA

AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY CANBERRA

AMEMBASSY CARACAS

AMEMBASSY FREETOWN

AMEMBASSY THE HAGUE

AMEMBASSY ISLAMABAD

AMEMBASSY KINSHASA

AMEMBASSY LAGOS

AMEMBASSY LONDON

AMEMBASSY MEXICO

AMEMBASSY OSLO

AMEMBASSY OTTAWA

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY TEHRAN

AMEMBASSY TOKYO

USMISSION EC BRUSSELS UNN

USMISSION GENEVA

USMISSION OECD PARIS UNN

C O N F I D E N T I A L SECTION 1 OF 2 USUN 0406

LIMDIS

E.O. 11652: GDS

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TAGS: EINV, EGEN, UN, ECOSOC

SUBJECT: ECOSOC WORKING GROUP ON CORRUPT PRACTICES--
SECOND SESSION

REF: USUN 382

1. SUMMARY: ECOSOC WORKING GROUP ON CORRUPT PRACTICES IN

ITS SECOND SESSION AGREED ON AN OUTLINE OF THE MAJOR ISSUES TO BE CONSIDERED, ASKED CENTER ON TNC'S TO PREPARE A MORE DETAILED AND ANNOTATED OUTLINE, AND AGREED TO MEET AS SCHEDULED MARCH 28 TO APRIL 8, WITH POSSIBILITY OF A RESUMED SESSION IF NECESSARY IN ORDER TO COMPLETE ITS REPORT TO JULY SESSION OF ECOSOC. DELEGATES OF DEVELOPING COUNTRIES DID NOT COME PREPARED TO DISCUSS SUBSTANTIVE ISSUES IN ANY DEPT. SINGLE EXCEPTION WAS AFRICAN GROUP WHICH ADDED NEW EMPHASIS TO ITS DESIRE FOR ACTION AGAINST INVESTMENT IN SOUTHERN AFRICA AS A "CORRUPT PRACTICE." IF MANDATE OF GROUP IS TO BE MET BY JULY ECOSOC, US MUST CONSIDER CHANGE IN ITS POSITION ON DISCLOSURE AND MAKE MAJOR DIPLOMATIC EFFORT WITH OTHER GOVERNMENTS. END SUMMARY.

2. WORKING GROUP HELD ITS SECOND SESSION JANUARY 31 TO FEBRUARY 11, 1977. MEETING WAS ATTENDED BY ALL MEMBERS OF GROUP EXCEPT ZAIRE. ALSO PRESENT AS ACTIVE OBSERVERS WERE WEO COUNTRIES WHICH HAVE NOT YET RESOLVED QUESTION OF WHICH OF THEM WILL TAKE THE THREE REMAINING WEO SEATS. MANDATE OF GROUP IS TO STUDY PROBLEM OF CORRUPT PRACTICES, ELABORATE SCOPE AND CONTENTS OF AN INTERNATIONAL AGREEMENT TO PREVENT ILLICIT PAYMENTS, AND TO MAKE CONCRETE REPORT AND RECOMMENDATIONS REGARDING THE AGREEMENT AND OTHER OPTIONS TO ECOSOC AT ITS 63D SESSION IN JULY. GROUP ELECTED JUMICHI NAKAMURA OF JAPAN AS VICE CHAIRMAN AND HAROLD ACEMAH OF UGANDA AS RAPPOREUR. IF LEFT OPEN ELECTION OF OTHER OFFICERS, AND ALSO LEFT OPEN ELECTION OF CHAIRMAN FOR THIRD SESSION IN LIGHT

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OF POSSIBILITY THE AMB RIVAS WILL NOT BE AVAILABLE AS CHAIRMAN.

3. US DEL INDICATED AT OUTSET THAT US INTENDS TO PURSUE AN INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS. AS AUTHORIZED, US DEL TABLED FOR DISCUSSION THE IDEAS IT HAD CIRCULATED INFORMALLY AT NOVEMBER MEETING. THESE WERE MADE AN OFFICIAL WORKING DOCUMENT.

4. LDC'S, WHICH WERE CRUCIAL TO THIS EXERCISE, DID NOT COME PREPARED TO DISCUSS SUBSTANTIVE ISSUES. THIS LACK OF PREPARATION, WHICH IN SOME CASES REFLECTED FAILURE OF GOVERNMENTS TO TAKE POSITIONS, KEPT SUBSTANTIVE WORK AT A MINIMUM AND PREVENTED ANY NEGOTIATIONS OR DRAFTING OF ILLICIT PAYMENTS AGREEMENT.

5. WORKING GROUP DID, HOWEVER, AGREE ON A VERY GENERAL OUTLINE OF THE MAJOR ISSUES TO BE DISCUSSED (REFTEL). THIS INCLUDES ALL THE CONCERNS AND SUGGESTIONS ADVANCED

BY MEMBERS AND OBSERVERS, AND THEREFORE HAS NO PARTICULAR SHAPE. NEVERTHELESS, IT PLACES MAJOR EMPHASIS ON AN AGREEMENT ON ILLICIT PAYMENTS.

6. ATTITUDES OF OTHER GOVERNMENTS WERE ONCE AGAIN MIXED. WEO DELS IN FORMAL STATEMENTS AND USEFUL BILATERAL EXCHANGES SHOWED MORE INTEREST IN AN INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS THAN THEY HAVE IN PAST. MOST EXPRESSED GRAVE RESERVATIONS ON US PROPOSAL FOR DISCLOSURE OF PAYMENTS, BUT MOST SEEMED READY SERIOUSLY TO CONSIDER A MORE NARROW AGREEMENT ON MUTUAL ASSISTANCE IN ENFORCEMENT OF NATIONAL BRIBERY LAWS, AND POSSIBLY A SYSTEM OF REPORTING AGENTS' FEES TO GOVERNMENTS BY MEANS OF SWORN AFFIDAVITS. ALL BUT ITALY WANTED TO LIMIT AGREEMENT TO ILLICIT PAYMENTS RATHER THAN POTENTIALLY BROADER CONCEPT OF CORRUPT PRACTICES.

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7. SOME LDC'S (IRAN, PAKISTAN, COLOMBIA) ARE SYM-
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PATHETIC TO THE US INITIATIVE. MEXICO AND POSSIBLY
OTHERS ARE OPPOSED TO ANY AGREEMENT ON CORRUPT PRAC-
TICES WHICH IS SEPARATE FROM A CODE OF CONDUCT.
AFRICANS SEEMED INTERESTED ONLY IN MEASURES AGAINST IN-
VESTMENT IN SOUTHERN AFRICA (THEY ARE CONCENTRATING
ON THE PAYMENT OF TAXES AND ROYALTIES TO "ILLEGAL
RACIST MINORITY REGIMES IN SOUTHERN AFRICA," MEANING
NAMIBIA, RHODESIA AND POSSIBLY SOUTH AFRICA), BUT
ACTION ON THIS QUESTION MIGHT PRODUCE INTEREST IN AN
ILLICIT PAYMENTS AGREEMENT.

8. WORKING GROUP AGREED TO HOLD THIRD AND FINAL
SESSION MARCH 28 TO APRIL 8 AS SCHEDULED AND TO RESUME
THAT SESSION FOR ONE WEEK SUBSEQUENTLY IF NECESSARY TO
COMPLETE ITS REPORT. GROUP ALSO REQUESTED CENTER ON TNC'S
TO PRODUCE FOR NEXT SESSION AN ANNOTATED OUTLINE
WHICH WILL SET OUT IN MORE DETAIL THE OPTIONS AVAILABLE
UNDER EACH ITEM OF THE AGREED OUTLINE OF ISSUES.
IF TIME PERMITS, CENTER WILL ALSO DRAFT LANGUAGE FOR
AN INTERNATIONAL AGREEMENT ON EACH SUBJECT OF OUTLINE.

9. SCHEDULE THEREFORE MAKES SOME CONCRETE RESULTS
POSSIBLE BY JULY ECOSOC SESSION, BUT LARGE OBSTACLES
MUST BE OVERCOME IF THIS IS TO HAPPEN. LDC'S MUST BE
PERSUADED TO TAKE UP THIS ISSUE IMMEDIATELY AND TO
DEVELOP POSITIONS TO THAT WORKING GROUP CAN GET DOWN
TO SUBSTANTIVE WORK AND DRAFTING. WEO'S MUST BE PER-
SUADED TO JOIN US IN EFFECTIVE ACTION REQUIRING NEW
LEGISLATION. THIS WILL REQUIRE A MAJOR DIPLOMATIC
EFFORT BY US. IF SUCH AN EFFORT WERE SUCCESSFUL,

INCREASINGLY OPEN ATTITUDE OF ALL WEO GROVERNMENTS
AND QUALIFIED INTEREST OF MANY LDC'S MAY PERMIT PRE-
PARATION OF A DRAFT AGREEMENT ON ILLICIT PAYMENTS.

10. US SHOULD THEREFORE GIVE URGENT CONSIDERATION TO:
A. THE IMPORTANCE IT ATTACHES TO THIS INITIATIVE
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AND HOW MUCH POLITICAL CAPITAL IT WISHES TO SPEND IN
PROMOTING IT;

B. THE IMPORTANCE IT ATTACHES TO OBTAINING CON-
CRETE RESULTS BY THE ECOSOC SESSION IN JULY, WHICH
WILL REQUIRE THAT A SUBSTANTIAL DIPLOMATIC EFFORT BE
MADE IMMEDIATELY; AND

C. THE ACCEPTABILITY OF AN AGREEMENT WHICH DOES
NOT INCLUDE PUBLIC DISCLOSURE OF AGENTS' FEES BUT MAY
INCLUDE:

- (1) INTERNATIONAL COOPERATION AND JUDICIAL
ASSISTANCE IN CRIMINAL BRIBERY INVESTIGATIONS BY HOST
COUNTRIES (AS PROPOSED BY US);
 - (2) REPORTING OF AGENTS' FEES, POSSIBLY BY
SWORN AFFIDAVITS(WITH PENALTIES FOR FALSE STATE-
MENTS BY HOME AND HOST COUNTRY WITH REPORTS AVAILABLE
TO OTHER GOVERNMENTS, BUT NOT PUBLICLY DISCLOSED AS
PROPOSED BY US);
 - (3) EXTRADITION (RAISED BY THE IRANIAN DEL);
AND, POSSIBLY,
 - (4) DISCLOSURE OF POLITICAL CONTRIBUTIONS
(CURRENTLY REQUIRED BY CANADA, UK AND FRG BUT AN EX-
TREMELY SENSITIVE ISSUE FOR OTHER EUROPEAN GOVERN-
MENTS).
- BENNETT

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